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Introduction

The Iowa Supreme Court adopted Chapter 25 of the Iowa Court Rules for Expanded Media Coverage (EMC) in 1979. The rules were updated in 2006 and 2009 to include news media coverage of the appellate courts. In the decades since the rules for expanded media coverage were approved, the courts and the news media have collaborated to provide audio and visual news media coverage of thousands of judicial proceedings. The technology used by the news media covering the courts in 2013 is significantly different from the cameras and recorders the news media used to cover trials in 1979. In today's courtrooms, for example, judges must decide whether to allow members of the news media to use laptops for blogging and smart phones for tweeting. The current rules do not address several technologies the news media uses today.

Kathleen Richardson, executive director of the Iowa Freedom of Information Council (FOI), wrote a letter to the Iowa Supreme Court, dated August 8, 2012, requesting the court to "open a discussion into whether Iowa Court Rules Chapter 25 should be updated to better reflect new technology and newsgathering practices." Ms. Richardson wrote that there had not been any serious problems motivating her letter but pointed to several issues, including: blogging live chats and tweeting from the courtroom; still cameras that shoot HD video; photos from cell phone cameras or other electronic devices such as tablets; live streaming of court proceedings to the Internet; the current limits on the number of devices allowed in the courtroom; and the definition of who qualifies as a member of the "news media" for purposes of expanded media coverage.

In response to the letter, the supreme court created the Committee on Expanded Media Coverage (committee) to review Chapter 25 and propose changes. Judicial branch staff worked with the Iowa Freedom of Information Council to identify people from the media and the courts to serve on the committee. The committee membership was balanced by gender and geography and included a district judge, district associate judge, district court administrator, a county attorney, a public defender, a private practice attorney, and members of the news media representing newspapers, television, radio, photographers, multimedia editors, editors, regional media coordinators, and a blogger. Iowa Supreme Court Justice Bruce Zager chaired the committee.¹

The committee surveyed each of the 13 regional media coordinators and the appellate court media coordinator to identify areas where the current court rules are deficient. Media coordinators are the liaison between the news media and the court. They are responsible for filing the expanded media coverage notice of request and for coordinating pooling. Pooling is the sharing of video and audio recordings and photographs when a limited number of news media are allowed into the courtroom. Additionally, after the first committee meeting, the committee surveyed the media coordinators a second time

¹ See appendix 1, Order appointing EMC Committee members.

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and Iowa's eight district court administrators with specific questions raised in the meeting.

The committee met in Des Moines February 6, 2013, to review the media coordinator survey, identify the gaps in the existing rules, and learn about new technology and how it is being used by members of the news media. During the meeting, the district judge, district associate judge, newspaper reporter, photographer, television reporter, and media coordinator each explained their role in the expanded media coverage process and their perceptions of the strengths and weaknesses of the current rules. The committee then listened to presentations from members of the news media who are using new technologies such as smart phones to tweet and laptops to blog from trials, and digital cameras for live streaming. The committee also reviewed expanded media rules from other states that allowed cameras in the courtroom. Materials used by the committee and minutes of the first meeting were posted on the judicial branch website.²

The committee identified three sections of the rules that do not address the new technology and newsgathering techniques used by the news media:

- **Definitional issues (Rule 25.1):**

- Review definition of expanded media coverage
- Add a definition for "news media"

- **Procedural aspects (Rule 25.3):**

- Timelines for EMC filings for all court procedures except initial appearances in criminal cases
- Timelines for EMC filings for initial appearances in criminal cases
- Review requirements for filing (notice)

- **Technical/devices (Rule 25.4):**

- Add a definition of electronic devices not covered in current court rules
- Review limits on the number and types of electronic devices allowed in courtroom

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- Review requirements for members of the news media using electronic devices in the courtroom

One subcommittee was formed for each of the three sections to recommend changes to the full committee. The full committee met in Des Moines a second time, August 14, 2013, to review the reports from the subcommittees and to finalize the recommendations to present to the supreme court. The supreme court reviewed the recommendations August 27, 2013.

Proposed changes to Chapter 25

The proposed amendments provide a more consistent use of expanded media coverage statewide while continuing to allow for judicial discretion in individual cases. The committee crafted the amended rules to allow transparency of the legal process while not disrupting court proceedings or interfering with individual rights. The committee chose not to rewrite the entire chapter, but to focus in on the specific areas in need of updating as identified by representatives of the courts and members of the news media. The proposed definition of “electronic devices,” for example, is broad to allow for the introduction of future technology without requiring continual rule updates. The phrase “live electronic reporting” covers tweeting, blogging, and future methods of real time electronic reporting by text. It does not include photography or video. The definition of “Expanded News Media Coverage” now includes broadcasting, recording, photographing, and live electronic reporting. A new definition, “News Media,” is very broad, but requires everyone who successfully applies for expanded news media coverage to comply with all court rules. This will allow the judicial officer better control of the courtroom when there are several members of the news media covering a case.

The committee had lengthy discussions on whether to allow cameras in the courtroom for initial appearances in criminal cases. Because the current rules do not differentiate between types of court procedures, initial appearances are handled differently in different parts of the state. Judicial officers are forced to waive advance notice requirements because there is typically very little time between an arrest and the initial appearance. Currently, some judicial officers allow cameras in the courtroom for initial appearances in criminal cases as a matter of practice; others strictly prohibit cameras; and some counties use close circuit cameras to connect the jail to courtroom and then make the resulting video available to the news media. Additionally, some courts will only accept hand delivered paper copies of an EMC request immediately prior to the initial appearance, while other courts will accept facsimile copies. In both situations, the 14-day advance notification is waived. To address both concerns, the committee proposed allowing the EMC request to be made either in writing or orally to the magistrate or judge presiding over an initial appearance, subject to an oral objection by the prosecutor, defendant, or defendant's counsel.

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The implementation of Electronic Document Management System (EDMS) in nearly half the counties in the state creates more inconsistencies. In counties with EDMS, the media coordinator must electronically file an EMC request and all parties in the case are immediately notified electronically. In counties without electronic filing, the media coordinator must mail or hand-deliver the EMC request to all parties. To prepare for the statewide use of EDMS and provide consistency during the implementation, the committee proposed allowing notice to be filed electronically or by paper copy. This will allow the media coordinator to mail, hand deliver, e-mail, fax, or, with EDMS, electronically file the notice with all parties, the judge expected to preside at the proceedings, and the appropriate clerk of district court and court administrator. With the ability to file electronically, the proposed rules shorten the time of notice from 14 days to seven days for all proceedings except initial appearances in criminal cases.

Finally, due to the number of different electronic devices the media uses today, the committee proposes expanding the number of people allowed into the courtroom to record video and audio and to photograph. The current rules allow two still cameras, two video cameras and an audio recorder. The newspaper reporter presenting to the committee explained he is expected to write a story, tweet events in real time, photograph and shoot video, and then immediately post all his coverage to the website. To address this issue while limiting distractions and disruptions, the amended rules does not limit the number of any particular electronic device, but allows for not more than five total members of the news media using still cameras, television cameras, audio recorders, and electronic devices, or any combination of the four for photography or video and audio recording. This amendment will give members of the news media flexibility and the judicial officer the ability to control the courtroom by designating where the news media is located in the courtroom and what can be recorded. Members of the news media using electrical devices for live electronic reporting are also required to file an EMC request.

These proposed changes to Chapter 25 apply only to members of the news media. This chapter does not prohibit or restrict the use of electronic devices by jurors or members of the public as long as the electronic devices are not used for video recording, audio recording, photography, broadcasting, or for live electronic reporting.

The supreme court approved the amended Chapter 25 as attached³ for public comment with a special emphasis on sections 25.3(2) and 25.3(3)(a) concerning initial appearances in criminal cases. The Chapter 25 forms are not included with this final report. The forms will be modified to correspond to the amended rules as approved by the supreme court.

³ Iowa Court Rules Chapter 25.